

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

No. 95-5769

VINCENT B. BEST,
Defendant-Appellant.

Appeal from the United States District Court
for the Western District of North Carolina, at Charlotte.
Robert D. Potter, Senior District Judge.
(CR-93-216-P)

Submitted: June 19, 1997

Decided: July 3, 1997

Before WILKINS and MICHAEL, Circuit Judges, and BUTZNER,
Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

COUNSEL

G. Alan DuBois, Assistant Federal Public Defender, Raleigh, North
Carolina, for Appellant. Mark T. Calloway, United States Attorney,
Gretchen C. F. Shappert, Assistant United States Attorney,
Charlotte,
North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Appellant filed an untimely notice of appeal. Counsel has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), and Appellant has filed a pro se supplemental brief. We dismiss the appeal for lack of jurisdiction. The time periods for filing notices of appeal are governed by Fed. R. App. P. 4. These periods are "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). A criminal defendant has ten days within which to file in the district court a notice of appeal from entry of judgment. Fed. R. App. P. 4(b). The only exception to the appeal period is when the district court extends the time to appeal for a showing of excusable neglect for a period not to exceed thirty days from the expiration of the time otherwise prescribed by the rule. Fed. R. App. P. 4(b).

The district court entered its judgment on October 3, 1994; Appellant's notice of appeal was filed on September 14, 1995, which is beyond the ten-day appeal period. Appellant's failure to note a timely appeal or obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of Appellant's appeal. We therefore dismiss the appeal and deny Best's motions to file an amendment to the supplemental brief and for leave to proceed and amend the supplemental brief.

This Court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state a copy thereof was served on the client.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED